

**STATE OF ILLINOIS
THE ILLINOIS COMMERCE COMMISSION**

ILLINOIS COMMERCE)	
COMMISSION)	
On its Own Motion)	Docket No. 20-0389
)	
vs)	
)	
AMEREN ILLINOIS COMPANY)	
d/b/a Ameren Illinois)	
)	
Investigation under Section 16-107.6(e))	
of the Public Utilities Act into an)	
annual process and formula for the)	
calculation of distributed generation)	
rebates.)	

**EMERGENCY MOTION FOR CLARIFICATION
OF THE
SOLAR ENERGY INDUSTRIES ASSOCIATION,
COALITION FOR COMMUNITY SOLAR ACCESS, AND
ILLINOIS SOLAR ENERGY ASSOCIATION**

Based on a strained reading of the Commission’s Second Interim Order issued on October 1, 2020, Ameren announced the very next day that it would no longer provide delivery service netting to new net metering customers after October 2, 2020. Because this result is directly contrary to the Commission’s directive that an audit take place before Ameren ends full retail net metering, the Solar Energy Industries Association, the Coalition for Community Solar Access, and the Illinois Solar Energy Association (collective, the Joint Solar Parties) request that the Commission take emergency action to clarify its Second Interim Order. Specifically, the Joint Solar Parties request that the Commission clarify that its Second Interim Order requires the Commission’s audit to be complete before Ameren ceases to offer full retail net metering and order Ameren to provide full retail net metering per the billing methodology described in Ill. C. C. No. 1 5th Revised Sheet

No. 24.004 to all customers who sign up for net metering before the Commission's audit is complete.

Among other decision points, in the Second Interim Order the Commission found that: "Staff should perform the audit of Ameren's calculations and data used to calculate the 5% threshold, before Ameren proceeds with implementation of the changes resulting from reaching the 5% threshold under Rider NM."¹ The Commission therefore ordered that "Staff shall perform the audit of Ameren's calculations and data used to calculate the 5% threshold before Ameren proceeds with implementation of the changes resulting from reaching the 5% threshold under Rider NM."² The same day the Commission issued the Second Interim Order, the Commission issued a press release titled "ICC Grants Emergency Relief to Avoid Solar Market Disruption and Preserve Net Metering."

The very next day, on October 2, 2020 at 5:14 PM, Ameren served on the parties to this docket a letter (Ameren's 5% Notification Letter) providing notice that Ameren "has reached the 5% threshold identified in Rider NM."³ Ameren stated in its 5% Notification Letter: "Customers who begin taking net metering service under Rider NM after October 2, 2020 will receive supply-only netting." In other words, despite the Commission's Second Interim Order, **as of October 3, 2020, Ameren no longer offers full retail net metering.**

Ameren's defiance of the Commission's Second Interim Order is based on a strained reading of the Commission's directives that Staff must audit "Ameren's calculation and data used to calculate the 5% threshold *before* Ameren proceeds with implementation of the changes

¹ Second Interim Order, p. 10.

² *Id.* at 11.

³ Ameren Illinois Company d/b/a Ameren Illinois, Notification of 5% Threshold, as defined in Ameren Illinois' Rider NM – Net Metering, Electric Service Schedule III. C.C. No. 1, 5th Revised Sheet No. 24.005.

resulting from reaching the 5% under Rider NM.”⁴ Ameren’s 5% Notification Letter reflects at least three misunderstandings on the part of Ameren.

First, Ameren disregards the Commission’s directive that the Staff audit must be performed *before* Ameren ceases offering full retail net metering to new customers. Staff obviously did not have an opportunity to perform an audit between the time that Ameren provided its notification at 5:14 PM on October 2 and the time that Ameren states it ceased offering full retail net metering on October 3. As the Joint Movants (which included the Joint Solar Parties) stated in the Emergency Motion for Stay and Other Interim Relief (Emergency Motion for Stay), “the Commission should not allow Ameren to end retail net metering without verifying that Ameren is calculating the 5% ratio correctly.”⁵ Such verification has not yet occurred. Moreover, the Commission has not even had the opportunity to establish “the grounds, scope, and nature of the audit,” as it intends to do during its October 8, 2020 Regular Open Meeting.⁶

Second, Ameren apparently believes it is complying with the Second Interim Order because there is sufficient time for Staff to perform the audit before its next billing cycle.⁷ The end of full retail net metering is not implemented when the change is reflected in Ameren’s billing system. Rather, Ameren implemented “the changes resulting from reaching the 5% under Rider NM” the moment that it announced retail net metering is no longer available after October 2, 2020. Ameren’s announcement that retail net metering is no longer available will immediately lead to the negative impacts on customers and the solar industry described in the Emergency Motion for

⁴ Second Interim Order, p. 11 (italics added).

⁵ Emergency Motion for Stay and Other Interim Relief, p. 4.

⁶ Second Interim Order, p. 9.

⁷ Ameren states that the unavailability of full retail net metering for new customers “will be reflected in customer bills beginning October 23, 2020, which marks the beginning of the Company’s upcoming November billing period” and later states that, because it has provided data supporting its calculation, “it will allow Staff to audit and verify the calculation on or before October 23, 2020. Ameren 5% Notification Letter, p. 2.

Stay. The fact that Ameren will maintain records of the credits a customer would have earned had Ameren not ended delivery service netting⁸ will provide little comfort to potential new solar customers, who will have no assurances that they will later receive the benefit of these credits or the benefit of a future rebate, the value of which has not been determined. Solar companies expect that virtually no new residential sales will occur in Ameren's service territory until this issue is resolved.⁹

Third, Staff must audit "Ameren's calculations and data" and Ameren must "submit sufficient information ... to enable Staff to conduct an efficient audit."¹⁰ Ameren did not submit any data that could be audited with its 5% Notification Letter. Attachment A to the 5% Notification Letter contains only the *sum* of the nameplate capacity of existing net metering customers' generation systems, divided by Ameren's total peak supply demand. Ameren did not include any data that will allow Staff to verify that this sum is correct. To verify Ameren's numbers, Ameren will need to provide Staff with the nameplate capacity of each net metering customer's system, including the subscribed capacity of each community solar system, and the date on which the system was energized.

The Commission should clarify that its Second Interim Order ordered Ameren not to cease offering full retail net metering until Staff has audited and verified that Ameren is performing its calculation correctly. The Commission has sufficient authority to make such an order. The clarification the Joint Solar Parties request requires only a finding that the Commission has the power not to allow Ameren to act unilaterally based on data that is not in the record and that the Commission has not verified.

⁸ *Id.*

⁹ Emergency Motion for Stay, p. 2, Exhibits D, E, F, and G.

¹⁰ Second Interim Order, p. 11.


To be clear, the Joint Solar Parties do not support the methodology Ameren uses to calculate the 5% methodology, but recognize that issue will be litigated in the Rider NM investigation that the Commission plans to initiate on October 8, 2020. Regardless of the outcome of the Rider NM investigation, however, it is crucial for protecting customers and avoiding unnecessary negative impacts on the solar industry that the Commission not allow Ameren to end retail net metering until the Commission verifies that Ameren has actually met the 5% threshold using the currently applicable methodology that appears in Rider NM.

Finally, it should be noted that granting this Emergency Motion for Clarification is necessary but not sufficient, on its own, to protect customers and the solar industry. If the Commission grants the Emergency Motion for Clarification, the availability of net metering will only be preserved long enough for Ameren to provide sufficient data for Staff to perform an audit, and for Staff to actually perform the audit. It will therefore be crucial for the Commission to act quickly in the Rider NM investigation to issue a stay of Ill. C. C. No. 1 5th Revised Sheet No. 24.005 and for such stay to remain in place until Rider NM is ultimately revised to be consistent with Sections 5-107.5 and 5-107.6.

WHEREFORE, for all the reasons stated herein, the Joint Solar Parties request that the Commission clarify that its Second Interim Order requires the Commission's audit to be complete before Ameren ceases to offer full retail net metering and order Ameren to provide full retail net metering per the billing methodology described in Ill. C. C. No. 1 5th Revised Sheet No. 24.004 to all customers who sign up for net metering before the Commission's audit is complete.

Dated: October 5, 2020

Respectfully submitted, by:



Scott F. Dunbar
Keyes & Fox LLP
1580 Lincoln St., Suite 880
Denver, CO 80203
(949) 525-6016
sdunbar@keyesfox.com



Tim Lindl
Keyes & Fox LLP
580 California Street, 12th Floor
San Francisco, CA 94104
(510) 314-8385
tlindl@keyesfox.com

Counsel for Joint Solar Parties



Nakhia Morrisette
(ARDC #6303118)
Central Region Director and Counsel
Solar Energy Industries Association
1425 K St NW #1000
Washington, DC 20005
(301) 335-4226
NMorrisette@seia.org

VERIFICATION

Pursuant to 83 Ill. Admin. Code 200.130 and 735 ILCS 5/1-109, under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this EMERGENCY MOTION FOR CLARIFICATION are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



Scott F. Dunbar
Keyes & Fox LLP
1580 Lincoln St., Suite 880
Denver, CO 80203
(949) 525-6016
sdunbar@keyesfox.com

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